

CADON
EAB
-H26

Government
Publications

EA-87-02



ENVIRONMENTAL ASSESSMENT BOARD



VOLUME: 367

DATE: Wednesday, April 8, 1992

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416) 963-1249

FARR &
ASSOCIATES
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4

CA20N
EAB
-H26

Government
Publications

EA-87-02



ENVIRONMENTAL ASSESSMENT BOARD



VOLUME: 367

DATE: Wednesday, April 8, 1992

BEFORE:

A. KOVEN Chairman

E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416) 963-1249

FARR &
ASSOCIATES
REPORTING INC.

(416) 482-3277

2300 Yonge St., Suite 709, Toronto, Canada M4P 1E4

HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable
Jim Bradley, Minister of the Environment,
requiring the Environmental Assessment
Board to hold a hearing with respect to a
Class Environmental Assessment (No.
NR-AA-30) of an undertaking by the Ministry
of Natural Resources for the activity of
Timber Management on Crown Lands in
Ontario.

Hearing held in the "Royal Room"
of the Empire Hotel, North Bay,
Ontario, on Wednesday, April 8th,
1992, commencing at 9:00 a.m.

VOLUME 367

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761116306010>

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY)	
MR. B. CAMPBELL)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY	)	ASSOCIATION
MR. D. HUNT)	
MR. R. BERAM		ENVIRONMENTAL ASSESSMENT BOARD
MR. J.E. HANNA	)	ONTARIO FEDERATION
DR. T. QUINNEY	)	OF ANGLERS & HUNTERS
MR. D. O'LEARY	)	and the NORTHERN ONTARIO TOURIST OUTFITTERS ASSOCIATION
MR. D. HUNTER	)	NISHNAWBE-ASKI NATION
MR. M. BAEDER	)	and WINDIGO TRIBAL COUNCIL
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MR. G. KAKEWAY)	
MR. J. IRWIN		ONTARIO METIS & ABORIGINAL ASSOCIATION
MS. M. HALL		KIMBERLY-CLARK OF CANADA LIMITED and SPRUCE FALLS POWER & PAPER COMPANY

APPEARANCES (Cont'd):

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. L. GREENSPOON	)	NORTHWATCH COALITION
MS. B. LLOYD)	
MR. P. ZYLBERBERG)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK	)	MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL		GREAT LAKES FOREST
MR. S.M. MAKUCH		CANADIAN PACIFIC FOREST PRODUCTS LTD.
MR. D. CURTIS	)	ONTARIO PROFESSIONAL
MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
Scoping Session (NORTHCARE)	63929-63954

1 ---Upon commencing at 9:05 a.m.

2 MADAM CHAIR: Good morning. The purpose
3 of our meeting today is to conduct what we call a
4 scoping session and we are going to be looking at the
5 written evidence that has been submitted by the group
6 consisting of Northwatch, the North Shore Tribal
7 Council, the United Chiefs and Councils of Manitoulin
8 and the Union of Ontario Indians.

9 We have the Board, Mr. Martel and I. My
10 name is Anne Koven and I have not met the parties
11 directly. Welcome to this session.

12 Could you please identify yourselves,
13 please.

14 MR. ZYLBERBERG: I am Philip Zylberberg,
15 counsel for the Northwatch coalition.

16 MADAM CHAIR: Could you spell your name,
17 Mr. Zylberberg?

18 MR. ZYLBERBERG: Z-y-l-b-e-r-b-e-r-g. If
19 it is necessary to reach me, I can be reached at 324
20 Elm Street, Sudbury.

21 MADAM CHAIR: Thank you.

22 MS. LLOYD: I'm Brennain Lloyd from
23 Northwatch, group liaison for Northwatch, here for the
24 Northwatch coalition of Northwatch, North Shore Tribal
25 Council, United Chiefs and Council of Manitoulin and

1 the Union.

2 MADAM CHAIR: Thank you very much, Ms.
3 Lloyd. I know that you have certainly been in touch
4 with our office for a long time now.

5 MS. LLOYD: It has been a while.

6 MADAM CHAIR: Four years actually.

7 We conduct these sessions very informally
8 and what we really are attempting to do is to
9 satisfy -- the Board wants to satisfy itself that it
10 has a good understanding of the written evidence. We
11 read it very carefully before we have it presented
12 orally and we have a few questions we are going to put
13 to you and ask that you have your witnesses prepared to
14 respond to these questions from the Board and these
15 questions are purely for the purpose of helping us
16 understand better what the written evidence is in front
17 of us.

18 These sessions have also provided an
19 opportunity for other parties to ask questions if they
20 don't understand some aspect of the evidence or the
21 process of getting the evidence in front of the Board.

22 We also talk about scheduling, how long
23 parties will take in putting in their
24 examination-in-chief and how long the intervenors and
25 the Proponent will take in cross-examining the

1 witnesses.

2 We understand that you have 19 witness
3 statements here. So we will peruse with you whether
4 you intend to bring all 19 witnesses and we will talk a
5 bit about the scheduling.

6 As I said, this is a procedure we have
7 set up to make sure that it goes very smoothly once we
8 show up on the first day of the case, and we would also
9 like at the scoping stage, if there will be any
10 procedural problems we like to identify those
11 beforehand. As well.

12 So I think we can get started and there
13 are very few people here today. I don't know if you
14 have met Catherine Blastorah who is counsel for the
15 Ministry of Natural Resources, behind here is Darlene
16 Dahl who represents the Ministry of the Environment and
17 to your right is Barrie Maxwell and you will know Ms.
18 Maxwell.

19 We have received, so as far as I know,
20 and Mr. Pascoe can correct me, we have received only
21 one statement of issue -- two. One from the Ministry
22 of Natural Resources and the OFIA. So presumably
23 cross-examination will only be conducted by those two
24 parties. Occasionally the Ministry of the Environment
25 has a question, but I expect if they do they will be

1 very brief.

2 So I think what we will do, Ms.
3 Blastorah, is perhaps go through the Board's list of
4 questions first and then you can take up any issues you
5 wish to with this party.

6 Our first question has to do with the
7 evidence of Dr. Peter Quinby in Section 7 of your
8 material. We understand that the Ministry of Natural
9 Resources will be questioning Dr. Quinby on some
10 aspects of his views on old growth white pine and its
11 protection.

12 The Board wanted to satisfy itself about
13 what seems to be a discrepancy in numbers. On page 22
14 of Dr. Quinby's presentation he identifies 31 per cent
15 of old growth white pine currently being protected in
16 Ontario, and then on page 43 he talks about 41 per cent
17 of old growth white pine being protected in Ontario.

18 What we would like Dr. Quinby to do is to
19 clarify for the Board what these statistics mean.

20 Also, all our business is taken down by a
21 court reporter and you will be able to have a
22 transcript of what we are saying today. I guess you
23 are going to have to take notes because you won't have
24 them before Monday when we start.

25 At any rate, if there are any questions

1 about the transcript you can speak to Mr. Pascoe and he
2 can get in touch with the court reporter.

3 MR. ZYLBERBERG: Our major concern is to
4 make sure that we know your questions so we come
5 prepared to answer them.

6 MADAM CHAIR: The second question we have
7 for Dr. Quinney is one that we have been asking
8 regularly of all the parties and all the witnesses and
9 that is, various people have come before us with
10 proposals that a certain percentage of the land base
11 should be treated in a certain way.

12 In Dr. Quinby's view he proposes I
13 believe that 10 to 15 per cent of the old growth white
14 pine or perhaps he means all white pine now, I am not
15 quite clear on that, should have some protection
16 afforded it and the Board's question to Dr. Quinney is:
17 Has he considered what this will do with respect to
18 other uses of that land base, and keeping in mind that
19 we have also proposals before us such as the endangered
20 spaces - I want to say endangered species, of course -
21 the endangered spaces proposal which calls for a 12 per
22 cent protection of a certain part of the land base.

23 We have had the industry come before us
24 and talk about the reserve policies of modified and
25 no-cut reserves which in their opinion could remove

1 more land base from forestry and and we received
2 percentages in the order of 12 to 20 per cent in that
3 situation.

4 I guess we are asking Dr. Quinby to
5 address that issue of protecting a certain portion, a
6 certain percentage of the land base and is that
7 compatible with other uses such as parks perhaps or the
8 endangered spaces program, or is it an area of the land
9 base which is entirely separate and, again, he calls
10 for that I think within each management unit where
11 there is white pine. We would like him to address that
12 question for us.

13 In Section 8 of your written evidence,
14 which is the evidence of Mr. Wakegijig, we notice on
15 page 3 that this witness will be referring to
16 traditional plants and herbs valued by native people.
17 We are interested in this.

18 So as far as we know we haven't received
19 another estimate of how many varieties of plants may be
20 of use or value by native communities and we wonder if
21 this figure of 150 different varieties of plants is
22 unique to Mr. Wakegijig's community or does this
23 reflect in some way -- is there common interest among
24 many native communities for the same plants and herbs
25 or are they very unique to each community.

1 In Section 17 is the evidence of Ms.
2 Robin MacIntyre and the Board would like clarification
3 of three statements that were made by Ms. MacIntyre.

4 On page 4, item 8, are we to take it that
5 Ms. MacIntyre is saying that the guidelines of the
6 Ministry of the Environment, including Fisheries
7 Habitat Guidelines and the Moose Guidelines, are not
8 working. Is she saying that these are in fact in her
9 experience not working.

10 Also, the second part of her statement
11 where she says:

12 "Any protection values for fish and
13 wildlife apply only to harvested
14 species" is not the Board's understanding
15 of the Fisheries Habitat Guidelines in which it is the
16 waterbodies that are to be protected. I wasn't quite
17 clear as to what she was saying in this section.

18 Mr. Martel has just pointed out, in the
19 second part of that statement Ms. MacIntyre claims
20 that:

21 "Lately evidence has emerged to challenge
22 our trust in the Ministry's idea of
23 protection for these and other species
24 within and beyond their areas of
25 concern."

1 We would like to know which evidence this
2 is.

3 On page 5, item 12, Ms. MacIntyre refers
4 to comments made by a district forester for MNR to the
5 effect that there would need to be a substitution of
6 young timber from mature wood that would somehow be
7 tied up by an EA that was being conducted on Megisan
8 Lake.

9 The gist of these comments aren't quite
10 clear to the Board. I don't know if the environmental
11 assessment that has resulted from a bump-up has in fact
12 been completed on Megisan Lake, but that sort of
13 statement presumably couldn't be made until the
14 environmental assessment had been completed. One can't
15 predict beforehand what the results of that
16 environmental assessment will be. So the remarks are
17 confusing and we would like some explanation by Ms.
18 MacIntyre as to her understanding of what was meant.

19 Finally, on page 7, the top of page 7,
20 Ms. MacIntyre refers to a comment made by the Ministry
21 of Natural Resources that:

22 "Even if the company's work permit was
23 pulled there would be no guarantee that
24 they..." the company, "...would comply."

25 Again, we would like to understand what

1 Ms. MacIntyre is relating to the Board in this
2 instance. We are very familiar with the requirements
3 of the Crown Timber Act and there is a fairly stringent
4 penalty system that would come into play against an
5 operator who didn't have a work permit. So we would
6 like some clarification about that.

7 In other words, the Board finds it hard
8 to believe that a company without a work permit would
9 be doing any work in the bush, but we would like to
10 have some clarification of that.

11 Finally in item 19, Dr. Peter Homenuck's
12 evidence. We wish to know from Dr. Homenuck whether he
13 has read the provisions for the native consultation
14 program that are contained in the Ministry of Natural
15 Resources January 6th, 1992, terms and conditions.

16 It would be of great assistance to the
17 Board if Dr. Homenuck were able to take a look at those
18 proposed terms and conditions. We don't see in his
19 evidence that he has done so, although he may have.

20 MR. ZYLBERBERG: I can advise you, Madam
21 Chair, that when we met with him the other day we gave
22 him a set and asked him to review it. So we
23 anticipated just this question.

24 MADAM CHAIR: Okay. That would be very
25 helpful. Thank you.

1 Those are the questions that we have with
2 respect to clarification of the written evidence.

3 Ms. Blastorah, do you have anything to
4 say?

5 MS. BLASTORAH: Just a couple of points,
6 Madam Chair.

7 First of all, I think you raised it
8 yourself. You had some question about how the witness'
9 presentation was going to be structured, whether it was
10 going to be a single panel or individual witnesses
11 because that would obviously affect how we would
12 structure our cross-examination.

13 Can you advice us?

14 MR. ZYLBERBERG: Why don't we provide
15 you with our tentative witness appearance schedule and
16 we can talk about how we are anticipating calling the
17 evidence.

18 Bear in mind, if there is less
19 cross-examination than we originally planned we may try
20 and compress this.

21 It was our plan to call panels in a
22 couple of instances, but not generally. It was our
23 plan to call John and Norm Aquonia who are brothers as
24 a panel, even though that isn't shown in this list.

25 It is our plan on the 16th to call Ron

1 Yurick, Ambrose Raftas and Robin MacIntyre as a panel.
2 If you read their statements you will see that they
3 describe similar experiences in different communities.

4 Peter Homenuck and Mark Dockstater having
5 collaborated on the witness statement, we were planning
6 to call them together to be questioned on that
7 statement.

8 It was our plan to call other witnesses
9 them singly, but we are prepared to be talked out of
10 that if it seems to anybody that it would be more
11 reasonable to call people in groups.

12 MADAM CHAIR: Do many of your witnesses
13 live in North Bay?

14 I ask that because we try to avoid the
15 situation where at two in the afternoon we have
16 finished with one set of evidence and the witnesses for
17 the next day aren't showing up until the next morning.
18 We don't like to miss any time. We like to keep people
19 going through as quickly as we can.

20 MR. ZYLBERBERG: Only one. I planned to
21 call her the first day. All the other witnesses come
22 from somewhere else. Some come from relatively close
23 by; that is to say, from the Timiskaming District, in
24 that region, but the majority come from further from
25 that.

1 MADAM CHAIR: Will any be coming in the
2 night before?

3 MR. ZYLBERBERG: I suppose that our plan
4 was to have them here for nine in the morning, but we
5 have a case manager who is making those arrangements.
6 I must confess that I left that in his hands. I don't
7 know.

8 MS. LLOYD: My understanding is that
9 those travelling in from the North Shore would be asked
10 to come in the evening before so that they would be
11 well rested and sure to be here on time for appearance
12 at nine. As far as the Timiskaming witnesses, I think
13 we were expecting would more probably travel in the
14 same day.

15 MADAM CHAIR: All right. I think what we
16 are going to ask you to do after this session is to sit
17 down with Ms. Blastorah and Mr. Pascoe and see if we
18 are sure that we are going to be filling all the time
19 that we are taking here.

20 For example, it may be that Messrs.
21 Aquonia's witness statements where are large in writing
22 might come in more quickly than you had thought.
23 On the other hand, they might take longer, but we
24 certainty don't want to be in the situation where we
25 have several hours left and no witnesses.

1 So it is going to take some ingenuity I
2 think to see how we can bring the witnesses, to have
3 them here and to use their time as usefully as we can.

4 MS. BLASTORAH: Madam Chair, perhaps I
5 should note at this point, I am advised by Mr. Freidin
6 who will be conducting the cross-examination that he
7 does not expect to be an extended period of time. I
8 think probably in the neighbourhood of two to four
9 hours at most, was his estimate for the entire case.

10 So I appreciate that may significantly
11 affect this and I think Mr. Zylberberg should be aware
12 of that.

13 MADAM CHAIR: So Mr. Freidin will not be
14 cross-examining every witness?

15 MS. BLASTORAH: At the time he gave me
16 that estimate he didn't know how the witnesses were
17 going to be presented.

18 Of course, if they are presented
19 individually that may affect it somewhat, but I don't
20 expect that it would be drastically affect the overall
21 estimate. There may be some people that he would have
22 no questions for based on the overall examination and
23 his cross-examination may be focused on other
24 individuals.

25 MR. ZYLBERBERG: I must confess that in

1 my experience as a lawyer that sometimes my estimates
2 of cross-examination prove wildly optimistic.

3 I don't know if Ms. Blastorah can advise
4 me if Mr. Freidin is better than I am at knowing how
5 long he will take.

6 MADAM CHAIR: The Board has some control
7 over how energetically counsel cross-examine.

8 MS. BLASTORAH: Of course, it is always
9 subject to the oral evidence which is an unknown.

10 MR. ZYLBERBERG: We will do that and we
11 will meet with other counsel this afternoon and, again,
12 with our case manager. It may well be that we can chop
13 a day off this depending on people's availability. To
14 some extent we are dependent on when people can come to
15 North Bay.

16 MADAM CHAIR: Your witnesses are
17 travelling a long distance and we want to make sure
18 that we don't put too great a burden on them, but, on
19 the other hand, if there is any possibility this week
20 of moving some witnesses forward -- and I think we are
21 getting an indication from the Proponent that it is
22 going to go fairly quickly.

23 MS. BLASTORAH: I will certainly contact
24 Mr. Freidin to see if he can give me some idea of which
25 witnesses he thinks his cross-examination will be

1 focused on. That may be the most useful.

2 MADAM CHAIR: Mr. Pascoe, do you know if
3 Mr. Cassidy or someone from the OFIA is going to be
4 here?

5 MR. PASCOE: I know that Mr. Cassidy will
6 be in attendance and he advised me last week that there
7 may be a small number of these witnesses that he would
8 be asking questions of.

9 MADAM CHAIR: You can certainly pass this
10 appearances schedule on to him or the final one that
11 comes out of today.

12 Mr. Cassidy is normally very brief in
13 cross-examination, so I wouldn't expect that would add
14 a large amount of time.

15 MS. BLASTORAH: I did have one other
16 matter, Madam Chair. It was in relation to one of the
17 interrogatories that was asked by both the Ministry of
18 Natural Resources -- I don't think you need them.

19 It was a question that was asked both by
20 the Ministry of Natural Resources and the Ministry of
21 the Environment and that was in relation to the
22 specific terms and conditions or proposals that the
23 Coalition is asking the Board to impose.

24 I don't think we got an answer to our
25 interrogatory. It may have been an oversight, but in

1 any event, a very similar interrogatory was asked by
2 the Ministry of the Environment and the response that
3 was given was that the Coalition will file their terms
4 and conditions in due course and their content will be
5 consistent with the witness statements.

6 I have some concern and Mr. Freidin has
7 expressed this concern to me as well, that it could
8 make our cross-examination more difficult and less
9 expeditious if we are not presented with specific terms
10 and conditions until the time of oral evidence.

11 If we could have those terms and
12 conditions in advance I think it would help us focus
13 the cross-examination and make the process much more
14 expeditious.

15 Terms and conditions, as the Board is
16 aware, were really due in mid March from the parties
17 and Northwatch being a party I'm sure they were aware
18 of that. I am suggesting that at this point in the
19 case preparation I am sure they know what their
20 specific terms and conditions are.

21 If Mr. Zylberberg could provide us with
22 those it would help us expedite our cross-examination
23 and I am sure help with the scheduling of his case.

24 MR. ZYLBERBERG: We will by the end of
25 this week have what are a set of recommendations that

1 .come out of the witness statements. They will not be
2 in the format that we would like them to be in; namely,
3 one that responds directly to the Ministry's draft
4 terms and conditions.

5 Please do excuse the fact that our
6 funding is not great and that we are a volunteer
7 organization except for the limited funding and that
8 the hours that have been paid for have been used so far
9 to prepare witness statements and to be ready for this
10 hearing.

11 So that when we file our draft terms and
12 conditions later than we should we hope that we will
13 get some sympathy from the fact that we don't have a
14 large organization with a large budget for these
15 hearings.

16 However, we will, at the very least by
17 the end of the week, cull all the recommendations out
18 of these witness statements and circulate them so it is
19 clear to the other parties what the individual
20 witnesses are recommending. I wish I could do better,
21 but I can't.

22 MS. BLASTORAH: Actually, that would be
23 very helpful. My question really focuses on the fact
24 that the evidence is obviously being put forward to
25 support some position and it is helpful for

1 cross-examination if we know specifically what the
2 position is.

3 Whether or not they are in the final
4 format I think is less important than whether we have
5 the proposals and we know why the evidence is being
6 called. I am sure that will be helpful to the Board,
7 too.

8 MADAM CHAIR: Thank you, Ms. Blastorah.
9 Any other matters to take up with Mr.

10 Zylberberg?

11 MS. BLASTORAH: Perhaps just by way of
12 clarification. When you provide that information, will
13 it indicate which witness is there to support which
14 proposal? You mentioned it would be focused on the
15 witness statement.

16 MR. ZYLBERBERG: I am told we don't have
17 the ability to do that until Monday morning, but it
18 will come with the witness' name next to each specific
19 recommendation.

20 MS. BLASTORAH: I see. So there will be
21 some idea of whose evidence supports that term and
22 condition?

23 MR. ZYLBERBERG: Yes.

24 MS. BLASTORAH: That would be helpful.
25 Thank you.

1 MR. ZYLBERBERG: We will bring that next
2 Monday and I am sorry we can't do better.

3 Partly one of the reasons that our
4 planning is a little off is that the first case manager
5 we hired fell very ill and had to be replaced midway
6 through the process of putting together the case.

7 So we will be there and we will have our
8 witnesses, but we will not have our paperwork in the
9 shape that we would have hoped.

10 MS. BLASTORAH: When you mentioned that
11 you would have that by the end of the week, would it be
12 possible to have it faxed to us in Toronto?

13 MR. ZYLBERBERG: I am now told that
14 bringing it with me on Monday is the best I can do.

15 MS. LLOYD: Can I speak?

16 MADAM CHAIR: Sure.

17 MS. LLOYD: What we can provide by the
18 end of the week is the recommendations as culled from
19 the witness statements.

20 It is my sense there is some, not a
21 considerable, but a certain amount of consolidation
22 which has to take place after that which we have to do
23 in consultation with our partners, with our Coalition
24 partners.

25 As you can imagine, being a Coalition of

1 coalitions that requires a considerable amount of
2 effort and, unfortunately, the lead individuals from
3 the North Shore Tribal Council and the Union are
4 unavailable to us this week.

5 So the best that I believe we can commit
6 to is having those culled straight from the witness
7 statements, but without that consolidation having
8 taking place which means there will be some repetition
9 and there may not be some exact matching.

10 MS. BLASTORAH: Well, if we could get at
11 least that information. As I say, it will help in Mr.
12 Freidin's preparation and then when we get the other
13 material on Monday he can rely more heavily on that.
14 Thank you. That would be helpful.

15 MADAM CHAIR: Any matters you wish to
16 take up today, Ms. Dahl?

17 MS. DAHL: No. Ms. Seaborn provided Mr.
18 Pascoe with a letter outlining our position. Ms.
19 Gillespie will be here next week for the evidence.

20 MADAM CHAIR: Ms. Gillespie will be
21 attending, all right.

22 MADAM CHAIR: Ms. Maxwell, do you have
23 anything to add.

24 MS. MAXWELL: We don't plan to do any
25 cross-examination. I will be here on Monday, but...

1 MADAM CHAIR: Again, we would encourage
2 you, Mr. Zylberberg -- and I am going to pronounce your
3 name correctly at some point, but I am bad with
4 everyone's name so it would be unusual if I could
5 pronounce yours correctly.

6 We are going to ask you after this
7 session to sit down with Mr. Pascoe and see what we can
8 do with respect to pushing up your witnesses. It has
9 been the experience of the Board that when we have a
10 number of lay witnesses that the evidence comes in
11 pretty quickly.

12 I notice in some of your sessions, such
13 as that with Dr. Quinby and Mr. Wilson, having gone
14 through the written evidence it would be our
15 expectation that, yes, those two witnesses will
16 probably occupy at least the afternoon.

17 So I think with Mr. Pascoe's experience
18 he might be able to make some suggestions as well as to
19 how we can make sure all the time is filled, but again
20 we appreciate that your witnesses are travelling at
21 great distances and it is quite a logistical feat to
22 get this many people all moving in the same direction
23 at the same time.

24 MR. ZYLBERBERG: We will try and it would
25 be our hope that we can chop a day off what we need.

1 MADAM CHAIR: All right, thank you.

2 Do you have anything else you wish to
3 raise with the Board or any questions to ask about how
4 we conduct ourselves?

5 We often ask the witnesses if they wish
6 to be sworn in for their evidence, if they wish to be
7 affirmed, if they wish to do a traditional statement at
8 the commencement of their evidence and, of course, it
9 is entirely up to them, but you might with your elders,
10 you might suggest that they wish to affirm their
11 evidence in any way at all that the Board is very
12 receptive to that.

13 MR. ZYLBERBERG: One of our witnesses
14 will - that is William Trudeau - need an interpreter.
15 It was our plan to have another one of our witnesses
16 interpret. I know that for courts of the law that is
17 frowned on. It was our hope that that would not be
18 taken amiss here.

19 He is a very good interpreter. Odawa
20 interpreters are not that common. They would have to
21 come from the (inaudible) because the Odawa and Ojibway
22 languages while similar are not identical.

23 We would hope that that would not be
24 taken amiss by anybody, that we would having a witness
25 double as an interpreter for the a witness.

1 If anybody on the Board or elsewhere
2 takes issue, let us know now and we will try and
3 arrange for another interpreter.

4 MS. BLASTORAH: I wasn't aware of this,
5 Madam Chair. I am somewhat caught off guard, not that
6 it is necessarily a problem.

7 Perhaps one question of clarification.
8 When you say interpreter, do you mean translator or
9 what exactly do you mean by that?

10 MR. ZYLBERBERG: Yes. Trudeau's English
11 isn't bad, but he is much better spoken in Odawa.

12 MS. BLASTORAH: I don't think it is a
13 problem, but I will have to take instructions on that
14 and speak to Mr. Freidin. If we have any concern we
15 will let Mr. Zylberberg know today. I don't anticipate
16 it will be a problem. I know we have had situations
17 like this in the past.

18 MADAM CHAIR: I would expect that likely
19 won't be a problem. The Proponent has been very
20 flexible in these kinds of situations, but they will
21 get in touch with you later.

22 MR. ZYLBERBERG: Both Mr. Wakegijig and
23 Mr. Trudeau want to make sure that I bring to the
24 Board's attention the fact that what we consider
25 ordinarily to be normal cross-examination is sometimes

1 taken by native elders as being interruption which is
2 very rude in their culture.

3 So I warn everybody ahead of time that I
4 might be asking for a great deal more leeway to let
5 people answer questions even more fully than the
6 questions themselves require in order that they not be
7 seen as being rude.

8 I am sure that this isn't the first time
9 that you have been asked that by people bringing lay
10 native witnesses before the panel.

11 MADAM CHAIR: Again, we have found that
12 it has been the attempt of everybody at this hearing to
13 display the utmost courtesy to witnesses in whatever
14 situation they come to us and there has never been a
15 complaint by witnesses that I know of that they haven't
16 felt that they had been treated respectfully.

17 So I think that we will all take note of
18 what you have said and that's fine.

19 MR. ZYLBERBERG: The other thing has to
20 do with room format and, again, some of our native
21 witnesses would prefer to have a circular format.

22 I must confess that I would feel more
23 comfortable with that. That, of course, depends on you
24 because what is ultimately important is the best way
25 the two of you can understand what everybody has to say

1 as opposed to anything else.

2 Is that something I should discuss with
3 Mr. Pascoe or leave to you?

4 MADAM CHAIR: Mr. Pascoe and the Ministry
5 of Natural Resources does all the preparation, all the
6 work in setting these up. The Board doesn't care
7 whatever the arrangement of the room is. So we will
8 leave it to Mr. Pascoe and --

9 MS. BLASTORAH: I don't know whether Mr.
10 Zylberberg is aware this is not the room that we will
11 be in. We will be in the Cloud room upstairs. It is a
12 somewhat smaller room. Perhaps we could take a look at
13 it after and just see what arrangements can be made to
14 accommodate his witnesses.

15 MADAM CHAIR: We are happy to sit in any
16 configuration.

17 MR. ZYLBERBERG: That's what I figured.
18 I don't have any other questions.

19 MS. BLASTORAH: No, that's all.

20 MADAM CHAIR: I just have one matter to
21 raise, Mr. Zylberberg, and that it is my understanding
22 that at some point in the past you were representing or
23 you were involved in a riding association with Mr.
24 Martel.

25 MR. ZYLBERBERG: That's true.

1 MADAM CHAIR: I just wanted to put that
2 on the record. In my opinion that in no way
3 constitutes a conflict of interest, but I want to put
4 on the public record that there has been a past
5 association.

6 MR. ZYLBERBERG: And we are friends. If
7 that's a concern to anybody, please tell me before I
8 come and present evidence.

9 MADAM CHAIR: I simply wanted to put it
10 on the record because I found in northern Ontario
11 everybody knows everybody and in Toronto nobody knows
12 anyone. We don't run into this.

13 I find it very hard in the north to go
14 anywhere, particularly with Mr. Martel, where he
15 doesn't most of the people in the room. I simply
16 wanted to put that on the public record as a matter of
17 information to the parties.

18 Is there anything else today?

19 (no response)

20 All right. Thank you very much for
21 coming and we will be back here Monday at 10:30.

22 MR. ZYLBERBERG: Okay, thank you.

23 ---Whereupon the hearing was adjourned at 9:40 a.m., to
24 be reconvened on Monday, April 13, 1992, in North
Bay at the Empire Hotel, commencing at 10:30 a.m.

25 MC [C. copyright 1985].



